IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7184 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAMDAR SAHAKARI BANK LTD - Petitioner(s)
Versus
MAHENDRASINH UDAYSINH CHAUHAN & 1 - Respondent(s)

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Appearance :
MR SHIRISH JOSHI for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,
Mr HL Jani, Asstt.GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 25/04/2007

ORAL JUDGMENT

1. None present for the respondent except learned AGP, though served. By invoking provisions of Articles 226 and 227 of the Constitution, the

petitioner has sought quashing of the impugned order dated 24.7.2000 of Labour Court, Bhavnagar in Recovery Application No.72/88 whereby respondent No.1 was awarded a sum of Rs. 39,300/-. The petitioner has also prayed for setting aside the subsequent consequential proceedings, even as application for setting aside the former *ex-parte* order is filed and pending in the Labour Court. It was submitted by learned counsel for the petitioner that, without prejudice to the rights and contentions of the petitioner and subject to the outcome of the Misc. Application filed by the petitioner for setting aside the *ex-parte* order, the petitioner was prepared to deposit the total amount of Rs.41,265/- with costs in the Labour Court and proceed with the Misc.Application as expeditiously as practicable. He requested that the Labour Court may be directed to hear and decide the aforesaid Misc. Application within a prescribed time limit within which the respondent workman may not be permitted to withdraw the amount proposed to be deposited by the petitioner.

2. Learned APP having no objection and, in view of the fair proposal made by the petitioner, the petition is partly allowed so as to quash the consequential proceedings for execution and recovery of the aforesaid amount with the clarification that, the original order dated 24.7.2000 in Recovery Application No.72/88 shall stand subject to further and final orders that may be made in the Misc. Application filed by the petitioner for setting aside that order. Misc. Application No.43 of 2000 shall be heard and disposed by the Labour Court, Bhavnagar as expeditiously as practicable and preferably within two months from today. In the meantime the petitioner shall deposit in the Labour Court the amount as stated before this court and that Court shall not permit disbursement of that amount which shall abide by the final order that may be made by the Labour Court in the aforesaid Misc. Application. Rule is made absolute accordingly and interim relief is vacated with no order as to costs. Direct Service is permitted.

sd/-
[D. H. Waghela, J.]

msp